

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Amendment of Part 2 of the Commission's)	
Rules to Allocate Spectrum Below 3 GHZ)	ET Docket No. 00-258
for Mobile and Fixed Services to Support)	
the Introduction of New Advanced Wireless)	
Services, Including Third Generation Wireless)	
Systems)	
)	
)	
Reallocation of the 216-220 MHz, 1390-1395)	
MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-)	WT Docket No. 02-08
1435 MHz, 1670-1675 MHz, and 2385-2390)	
MHz Government Transfer Bands)	

To: The Commission

**COMMENTS AND
SUPPLEMENT TO PETITION FOR PARTIAL RECONSIDERATION**

Aerospace and Flight Test Radio Coordinating Council ("AFTRCC"), by its counsel and in response to the Commission's Public Notice,¹ hereby submits these Comments in response to the National Telecommunications and Information Administration's ("NTIA") Report "An Assessment of the Viability of Accommodating Advanced Mobile Wireless (3G) Systems in the 1710-1770 MHz and 2110-2170 MHz Bands" ("3G Report"). These Comments also are relevant

¹ "FCC Seeks Comment on the National Telecommunications and Information Administration's Report 'An Assessment of the Viability of Accommodating Advanced Mobile Wireless (3G) Systems in the 1710-1770 MHz and 2110-2170 MHz Bands.' (ET Docket No. 00-258)," DA 02-1780, released July 24, 2002.

to the Commission's *Report and Order* in ET Docket 02-8,² and AFTRCC's pending Petition for Partial Reconsideration ("Petition") filed July 22, 2002. Therefore, AFTRCC also is submitting these Comments as a Supplement to its Petition.³

I. INTRODUCTION

As the Commission is aware, AFTRCC is the association of aerospace companies dedicated to the preservation and protection of spectrum allocated for flight testing. Members of AFTRCC include the major U.S. manufacturers of military and commercial aircraft. AFTRCC also is the FCC-recognized Non-Government advisory committee for coordination of flight test frequencies shared by Government and Non-Government users. *See* 47 C.F.R. Section 87.305. AFTRCC works closely with its counterpart Government coordinators in order to ensure prompt, efficient coordination of flight test frequencies. AFTRCC has a long history of participation in spectrum policy issues relative to flight test telemetry and voice frequencies. This includes initiating the private sector efforts which led to the allocation of radio spectrum for aeronautical telemetry, including the 2360-2390 MHz band.

² *See Reallocation of the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz Government Transfer Bands (Report and Order)*, FCC 02-152, released May 24, 2002.

³ Although this filing is made after the 30-day period for petitions for reconsideration under Section 1.429 of the Commission's Rules, leave is requested for the Commission to accept this filing as a Supplement to AFTRCC's Petition. The subject matter of this Supplement, namely the 3G Report, was not released until after the 30-day deadline for petitions for reconsideration of the *Report and Order*. Thus, it was not possible for AFTRCC to discuss the impact of the 3G Report in its Petition. Inasmuch as the 3G Report suggests a reallocation of the 2385-2390 MHz band, which is, in part, the subject of AFTRCC's Petition, good cause exists to accept this filing as a Supplement to AFTRCC's Petition.

II. DISCUSSION

The 3G Report evaluates “the viability of making all or a portion of the 1710-1770 MHz and 2110-2170 MHz bands available for advanced mobile wireless (3G) services.” 3G Report at 1. It concludes that 90 MHz, comprised of 1710-1755 MHz and a matching 45 MHz from the 2110-2170 MHz band, can be allocated for 3G services. Existing federal systems operating in the 1710-1755 MHz band would relocate to other bands or modify their operations by December 2008, or sooner. This includes the relocation of Department of Defense (DOD) airborne telemetry and video system operations at 16 protected DOD sites to other frequency bands. *Ibid.* at 2. The 3G Report identifies the 2385-2390 MHz band (and possibly 2390-2395 MHz) as part of the solution for relocated DOD operations.⁴ *Ibid.* at 16.

In January 2002 the Commission adopted a Report and Order which, in part, reallocated the 2385-2390 MHz band from shared Government-Non-Government use to exclusive Non-Government use.⁵ Prior to the *Reallocation Report and Order*, the 2385-2390 MHz band was “allocated to the mobile service on a primary basis for Federal and non-Federal Government use, limited to aeronautical telemetry and associated telecommand operations for flight testing of aircraft and missiles.” *Ibid.* at para. 67. All other mobile telemetry uses were on a secondary basis.

In the May 24, 2002 *Report and Order* noted above, the Commission adopted service rules and policies for the Non-Government use of the 2385-2390 MHz band. The service rules

⁴ Relocating DOD operations to the 1770-1850 MHz band is viewed as potentially difficult due to existing heavy use in the band. 3G Report at 16.

⁵ *Reallocation of the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz Government Transfer Bands (Report and Order and Memorandum Opinion and Order)*, FCC 01-382, released January 2, 2002 (“*Reallocation Report and Order*”).

included issuing a single nationwide license via a competitive bidding process, out-of-band emission standards and maximum transmitter output power limits. *Report and Order* at paras. 30, 131, 137. At the same time, the Commission denied AFTRCC's proposal for coordination of commercial operations in 2385-2390 MHz as against flight test telemetry in the adjacent 2360-2385 MHz band. AFTRCC requested such procedures to insure that commercial operations in the 2385-2390 MHz band do not cause interference to telemetry operations in the adjacent 2360-2385 MHz band.⁶ *Ibid.* at paras. 176-177.

On July 22, 2002, AFTRCC filed its Petition seeking partial reconsideration of the *Report and Order*. In particular, AFTRCC sought reconsideration of the Commission's refusal to adopt an adjacent channel coordination requirement for the 1432-1435 MHz and 2385-2390 MHz bands.

The 3G Report contemplates that the *quid pro quo* for the Government making available the 1710-1755 MHz band for 3G is the reallocation of 2385-2390 MHz for Government use (and possible reallocation of the 2390-2395 MHz band to include airborne telemetry). In essence, the 3G Report contemplates a reversal of the Commission's *Reallocation Report and Order* as it pertains to 2385-2390 MHz. Should the Commission adopt this proposal it would moot that part of AFTRCC's Petition which addresses the service rules adopted in the *Report and Order* for the 2385-2390 MHz band.⁷

⁶ In addition to the 2385-2390 MHz band, AFTRCC sought an adjacent channel coordination requirement for commercial operations in the 1432-1435 MHz band to protect flight test telemetry operations at 1435-1525 MHz.

⁷ The 3G Report has no bearing on that part of AFTRCC's Petition which addresses the issue of adjacent band coordination for commercial operations at 1432-1435 MHz.

Given the potential impact of the 3G Report on the status of the 2385-2390 MHz band, it is prudent for the Commission to delay any implementation of the *Reallocation Report and Order* and the new service rules pertaining to 2385-2390 MHz pending a final decision in the 3G proceeding in Docket 00-258. Delayed implementation of the service rules and licensing for the 2385-2390 MHz band will prevent any company or entity from proceeding in reliance on rules and procedures which may become moot. In this regard, AFTRCC observes that the Commission already has taken the initial step of withdrawing the 2385-2390 MHz band from the Auction No. 46 license inventory, stating that the auction of the nationwide license will be announced by a separate public notice.⁸

III. CONCLUSION

For the reasons set forth above, the Commission should delay any implementation of the service rules, and defer any licensing actions for the 2385-2390 MHz band pending Commission action on the proposals set forth in the 3G Report.

⁸ See *Public Notice, "Auction No. 46 Revised License Inventory and Auction Start Date,"* DA 02-1628, released July 15, 2002.

Respectfully submitted,

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